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MINUTES

The Town of Manteo Board of Commissioners held their Regular February 3, 2021 meeting at 6:30 p.m. at 407 Budleigh Street, Manteo, NC and via teleconference.

The following members were present:

- Mayor Bobby Owens (remote)
- Mayor Pro-Tem Betty Selby
- Commissioner Darrell Collins (remote)
- Commissioner Eddie Mann (remote)
- Commissioner Richie Burke (remote)
- Commissioner Jason Borland
- Commissioner Christine Walker

The following members were absent:

Also present at the meeting were:

- Town Manager James Ayers
- Town Attorney Ben Gallop
- IT Director Carl Woody
- Town Planner Melissa Dickerson
- Town Clerk Jamie Whitley

Mayor Bobby Owens called the meeting to order at 6:31 p.m. Town Manager Ayers did a roll call verifying that there was a quorum: Mayor Owens-present (remote); Mayor Pro-Tem Selby-present; Commissioner Burke-present (remote); Commission Borland-present; Commissioner Collins-present (remote); Commissioner Mann-present (remote); and Commissioner Walker-present. A quorum was established.

Mayor Owens asked for the Pledge of Allegiance followed by a moment of silence.

SUBJECT: Adoption of Agenda as presented or amended

MOTION: A motion was made by Commissioner Walker and seconded by Mayor Pro-Tem Selby to approve the agenda as presented and was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Mann, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

SUBJECT: Adoption of the items on the Consent Agenda as presented or amended

MOTION: A motion was made by Commissioner Walker and seconded by Commissioner Borland to approve the Consent Agenda with the following items: Regular January 6, 2021 minutes and Recessed January 20, 2021 minutes and was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Mann, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

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PUBLIC HEARINGS

SUBJECT: Legislative Public Hearing for Zoning District Designation for Town-Owned Property at 0 Sir Walter Raleigh Street

Planner Melissa Dickerson presented her staff report to the Board of Commissioners for the town-owned property located on Sir Walter Raleigh Street (Parcel # 025502000). The Board of Commissioners held a public hearing for annexation of this property on September 2, 2020 and voted in favor of the annexation on September 16, 2020.

The next step is to give this property a Town of Manteo zoning designation. Currently, the property is zoned Dare County R-2 Medium Density Residential. The Planning Board considered this matter at their December 8, 2020 meeting and made the recommendation to the Board of Commissioners to designate this property as R-2 General Residential. The density for R-2 in the Town of Manteo is the same as the R-2 designation in the County, which is six units per acre.

MOTION: A motion was made by Commissioner Borland and seconded by Commissioner Walker to open the Legislative Hearing on the Zoning District for 0 Sir Walter Raleigh and was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Mann, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

No one wished to speak during the legislative hearing.

MOTION: A motion was made by Mayor Pro-Tem Selby and seconded by Commissioner Borland to close the Legislative Hearing on the Zoning District for 0 Sir Walter Raleigh and was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Mann, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

Mr. Ayers informed the public that they can submit comments on this matter to his email, jayers@manteonc.gov, within the next 24 hours after the meeting and their comments will be noted for the next session. A vote on the designation for this property will be held at the February 17, 2021 meeting.

SUBJECT: Quasi-Judicial Public Hearing for Conditional Use Permit for Manteo High School

Mr. Ayers informed everyone that we will be entering into a quasi-judicial hearing which is different from a legislative hearing because it is an evidentiary hearing and we will receive sworn testimony. Mr. Ayers turned the meeting over to Town Attorney Ben Gallop.

Mr. Gallop stated that staff will provide a description of the project and information, under oath, and then the applicant will get a chance to provide any evidence in addition to that. The applicant has the burden of meeting the standards of the ordinance in order to be granted the permit. If the applicant meets the standards under the ordinance, then the Board must grant them the permit. All testimony must be under the oath and the Town Clerk will administer the oath to anyone that wishes to testify. The public will testify after staff and the applicant and can only provide

relevant evidence. People from the public will be sworn in one at a time as they raise their hand to testify.

MOTION: A motion was made by Commissioner Walker and seconded by Commissioner Collins to open the evidentiary hearing on the conditional use permit amendment for Manteo High School and was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Mann, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

Mr. Gallop asked for Town Planner Melissa Dickerson to come forward to swear or affirm her testimony on behalf of the Town of Manteo and asked Mr. John DeLucia of Albemarle and Associates, Ltd. to come forward to swear or affirm his testimony in behalf of Dare County Board of Education (School Board).

Mayor Pro-Tem Selby recused herself from the evidentiary hearing because she is employed by the School Board. There were no objections from any of the Commissioners. Mr. Gallop stated that with no objection, her association/relationship with the School Board is appropriate for her not to vote.

Ms. Whitley administered an oath to Ms. Dickerson and Mr. DeLucia. Both witnesses confirmed that they do swear or affirm to tell the truth, the whole truth and nothing but the truth.

Sworn Testimony

Ms. Dickerson: Thank you, Mr. Mayor and thank you, Mr. Gallop. Mayor and Commissioners as I present to you tonight, I will pause briefly so that you all can see the exhibits shown on the screen before moving along. These exhibits are included with the staff report provided to you all in the agenda packet.

On November 2, 2020, staff received an application, exhibit 1, from Dare County Schools to amend the conditional use permit for Manteo High School. The conditional use permit amendment application proposes to replace the site plan that was previously approved in 2005.

The 2005 conditional use permit site plan, or exhibit 2, notes two future locker room facilities as an addition to the softball fieldhouse and a new structure in between the baseball field and the football field. Those facilities have not been constructed.

The 2020 proposed site plan, or Exhibit 3, changes the location of the fieldhouse. Locker rooms and bathrooms will be included in this facility to a location closer to the gymnasium of the school. There is an existing outdoor basketball court that is proposed to be removed and the fieldhouse will be built adjacent to where that outdoor basketball court currently exists.

Adjacent property owners were notified by first class mail of the application on November 24, 2020 prior to the Planning and Zoning Board Meeting on December 8, 2020. The Planning Board received four phone calls in response to the adjacent property owner notification. At their December 8, 2020 meeting, the Planning and Zoning Board recommended approval of the conditional use permit amendment to the Board of Commissioners.

The proposed building footprint, 60 feet by 80 feet, is adjacent to the existing, 60 feet by 80 feet, outdoor basketball court that will be removed. There is a very small increase in lot coverage from the existing 25.8 percent to 26 percent. Exhibit 3: The proposed 2020 site plan complies with the conditions listed in the conditional use permit and complies with the standards of the ordinance.

The Board of Commissioners set a quasi-judicial hearing for today, Wednesday, February 3, 2021 at their January 6, 2021 meeting. A notice of the February 3, 2021 hearing, today's hearing, was mailed on January 20, 2021 to adjacent property owners. In addition to the mailed notice, the hearing notice was published in the newspaper. A large sign containing the hearing notice was also posted on the property. The proposed site plan meets the standards of the ordinance and conditions previously included in the conditional use permit.

Exhibit 4 is the current Manteo High School Conditional Use Permit that was permitted in 2005.

That concludes my remarks.

Mr. Gallop: Does anyone from the Board have any questions for Ms. Dickerson?

Commissioner Collins: This is Darrell. So, these buildings were already a part of the conditional use permit but they were not constructed at that time, right?

Ms. Dickerson: Yes, Commissioner Collins. That is true. They were just in a different location on the site plan.

Commissioner Collins: Okay, and the fieldhouse will include the locker rooms, too?

Ms. Dickerson: Yes, sir.

Commissioner Collins: Okay.

Mr. Gallop: Any other board members have any questions for Ms. Dickerson? Is there anyone else from staff? Ms. Dickerson, you're going to be the only one to testify from staff.

Ms. Dickerson: That is correct.

Mr. Gallop: I'll call Mr. DeLucia up, who is the representative of the School Board.

Mr. DeLucia: Good evening, it is nice to be with y'all here tonight. (Adjust the microphone) Is that better? I'm John DeLucia from Albemarle and Associates representing the School Board tonight in this conditional use permit hearing. I think Ms. Dickerson has clearly defined it. The high school is in dire need of some new facilities. I think the community is excited about it. They say it takes a community to raise a child, well to raise this fieldhouse, we may be asking the community. We think it is in a good location. It is closer to the field. It is probably going to provide some bathrooms, maybe another concession stand. We are looking at it. I have already

met with Mr. Ben Cahoon, the architect. This facility is very similar to what we have over at First Flight, so it will be a nice facility.

Mr. Gallop: Does anyone from the board have any questions for Mr. DeLucia?

Commissioner Burke: Yes. This is Richie. I'm sorry. Have you already started construction on the structure?

Mr. DeLucia: No, sir. No, sir. But where the basketball court, that outside court is, that is about half of the building. It will sit right there were that court is.

Commissioner Burke: So, there is no power line or nothing, as of yet? Or anything like that or of that nature?

Mr. DeLucia: No, nothing. Nothing has been built. We are fortunate that we got the water and the sewer running right between the new fieldhouse location and the existing building. So, tapping into that will be relatively simple in that location.

Commissioner Burke: Okay. Thank you.

Mr. DeLucia: You're welcome.

Mr. Gallop: Does anyone else from the board have any questions for Mr. DeLucia? Thank you very much, Mr. DeLucia. Seeing no one else for the applicant here, I'll move to the public.

There are no members of the public present in the room so we will move to the folks that are on our Zoom. If you are a member of the public who would like to testify under oath to relevant testimony to whether or not this conditional use permit should be granted or not, if you could press *9 on your phone. It will raise your hand where we can see that and then our IT folks will unmute you and allow you to speak. So again, press *9, we will be able to know that you would like to speak. Once again, last try, if you would like to speak, provide testimony on this conditional use permit, please press *9 on your phone so that we can see that your hand is raised on the Zoom program.

Okay, Mr. Mayor. I don't see anyone who wishes to testify from the public. You've heard, the board has heard all of the testimony that is here tonight. Normally, I would view that this would be the time to close the evidentiary hearing and deliberate. However, as Mr. Ayers mentioned with the legislative public hearing, the statute that the General Assembly passed late last spring, early last summer, regarding remote meetings. Unfortunately, it isn't very clear about how 24-hour additional notice and comment period works for quasi-judicial hearings. My recommendation is for someone to make a motion to continue the evidentiary hearing to another meeting to allow for 24-hour comment period. However, if the public is listening to this, they should be aware that your comment can not be received as part of the hearing. You will still need to come to the next meeting and testify because the key point of the quasi-judicial hearing is everything needs to be under oath and on the record. So written comments are typically not considered. So, I think that the best thing to do to ensure that you meet the statute and to ensure that people have the opportunity to have their say, is that anyone who provides a written

comment in the next 24-hours, that the Town responds to them with the recommendation that they come to the meeting, the next meeting, where it will be continued too so that they can provide their testimony under oath if they desire to do so. So, at this point, my recommendation would be for someone to move to continue the evidentiary hearing on this conditional use permit amendment for Manteo High School until 5:00 p.m. on February 17, 2021.

Mayor Owens: Alright, you heard Ben’s motion. Will someone make a motion?

MOTION: A motion was made by Commissioner Burke and seconded by Commissioner Borland to continue the evidentiary hearing on the conditional use permit amendment for Manteo High School until 5:00 p.m. on February 17, 2021 and was approved by the following roll call vote: Ayes: Commissioners Burke, Borland, Mann, Walker, and Collins. Nays: None. Absent: None. Recused: Mayor Pro-Tem Selby. **Motion carried.**

PUBLIC COMMENTS

Members of the public are invited to address the Board of Commissioners on any topic. Public Comment is not intended to require the Board to answer any impromptu questions or to take any action on items brought up during the public comment period. Speakers will address all the comments to the Board as a whole and not one individual Commissioner. Discussions between speakers and members of the audience will not be allowed. Time limits are 3 minutes per person or 5 minutes per group. Please identify yourself and your location so that your statements can be recorded.

No one wished to address the board.

NEW BUSINESS

SUBJECT: Utility Easement with CenturyLink at Queen Elizabeth Avenue

CenturyLink has requested a small utility easement from the Town of Manteo. The proposed easement has a width of 5 feet and a length of 26.48 feet at its longest point. It is located along Queen Elizabeth Avenue under and behind the two benches closest to the Waterfront Condos. The easement is restricted to the placement of underground communications cables, wires, conduits, and related items. We wanted to make sure that it would not affect future improvements at the site. CenturyLink will provide service for residential and commercial customers in this area of Town. The recommendation is for the Board to accept the easement.

Mayor Owens wanted to make sure that this easement will not affect future developments on this site. Mr. Ayers and Ms. Dickerson visited the site and there was a subcontractor trying to lay line across the site, which would have interfered with future improvements, so they issued a stop order then. CenturyLink originally wanted a 10-foot easement but we limited them to a 5-foot easement and they did comply with that.

MOTION: A motion was made by Commissioner Borland and seconded by Commissioner Burke to authorize the Town Manager to execute the proposed easement agreement between CenturyLink and the Town of Manteo and was approved by the following roll call vote: Ayes:

Mayor Pro-Tem Selby, Commissioners Burke, Borland, Mann, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

SUBJECT: Contract with Pyrotecnico for July 4th Fireworks

This is a proposed contract with Pyrotecnico for July 4th fireworks. We still do not have full knowledge of the Federal, State, and County guidance for July 4th on whether we can have crowd gathering or not. We have negotiated a contract for this 4th of July if crowd gathering restrictions are lifted then we can have the event. However, it is written in the contract that we can postpone without penalty in case the pandemic prohibits a large event. The proposed contract waives postponement fees as long as the Town gives written notice at least 30 days prior to July 4, 2021. The Town would be allowed to postpone the fireworks until a future date in 2021 or 2022. We have to commit to the contract in order to save our position. The proposed action is for the Board of Commissioners to authorize the Town Manager to execute and administer the above-referenced contract on behalf of the Town of Manteo.

Commissioner Collins asked if any money has to be paid upfront for this contract.

Mr. Ayers replied no, sir. As part of the negotiations, we still had a credit from the remainder of our deposit from last year and that credit was \$18,000. We also received a \$3,500 discount which is a partial refund of our prior postponement fees. There are no out of pocket fees right now. If we have the event, we just need to pay the remainder with a check on the day of the show.

MOTION: A motion was made by Mayor Pro-Tem Selby and seconded by Commissioner Collins to authorize the Town Manager to execute the proposed fireworks contract between Pyrotecnico and the Town of Manteo and was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Mann, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

MAYOR'S/COMMISSIONERS COMMENTS

Mayor Owens: He apologized for the awkwardness of the teleconference. He hopes we can have the July 4th fireworks.

Commissioner Burke: He asked what happened to the second public hearing that was supposed to have happened tonight on George Howe Street?

Ms. Dickerson informed the Board that the applicant, Mr. Moore, withdrew his application and resubmitted a new one. He will be going to the Planning Board in March and then they will have a recommendation for Board later.

Commissioner Borland: He asked for an update on the Twenty-Year Working Group. He doesn't want to lose steam on this project.

Ms. Dickerson is working on a staff report and has all of the reports from the working group. She has had multiple permits come in including COA (College of the Albemarle) and she has not had the chance to wrap up that report. She does have a working document and she wants to wrap it

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up but has not had the chance to do so. There will probably be some follow up discussion related to budget discussions to move forward on that.

The Downtown Associate Community Program kick-off had almost 45 people on virtually. He is excited and the community is excited. There are good things to come.

Mayor Owens followed up that he spoke to some of the downtown business owners and they are excited about what the Town and Mr. Ayers is doing. He personally told him that they enjoyed the meeting.

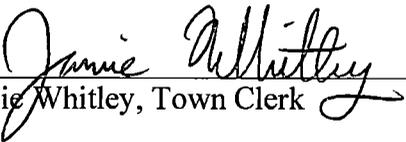
Commissioner Mann: He thanked the Town for putting up the vision board at the Town Commons. It looks nice and it shows the vision of what the Town Commons is going to be.

Mayor Pro-Tem Selby: She stated that February is the month that we celebrate Black History but Black History is every month for her. We have a lot of Black History in Dare County and she wanted everyone to keep that in mind. There will be some local things that will be coming out this month for Black History.

There being no further business to come before the Board or other persons to be heard a motion was made by Commissioner Collins and seconded by Mayor Pro-Tem Selby the meeting was recessed at 7:12 p.m. until February 17, 2021 at 5:00 p.m. The motion was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Walker, Collins, Mann, Borland, and Burke. Nays: None. Absent: None. **Motion carried unanimously.**

This the 3rd day of February 2021.

ATTEST:



Jamie Whitley, Town Clerk



Bobby Owens, Mayor

